

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL NO. <u>12-_____</u>
v.	:	DATE FILED: <u>March 5, 2012</u>
KIM YOEUN	:	VIOLATIONS:
	:	26 U.S.C. § 7202 (failure to collect,
		account for and pay over
		employment taxes – 1 count)

INFORMATION

COUNT ONE

THE UNITED STATES ATTORNEY CHARGES THAT:

At all times material to this information:

1. Defendant KIM YOEUN operated and controlled labor-leasing companies that supplied or “leased” temporary laborers on a weekly basis to various client businesses, primarily in Lancaster County, Pennsylvania.
2. From in or about April 2004, to in or about September 2007, defendant KIM YOEUN operated a labor leasing company known as Lancaster Packers, Inc. (“Lancaster Packers”). From in or about July 19, 2007, through at least December 2008, defendant YOEUN operated a labor leasing company known as BC Farm Resources, Inc. (“BC Farm Resources”).
3. Lancaster Packers and BC Farm Resources supplied their client businesses with temporary laborers who performed agricultural work and other low skilled labor such as packaging and assembly work. The client businesses, in turn, made weekly payments in the form of checks to Lancaster Packers and BC Farm Resources based upon invoices submitted by

defendant KIM YOEUEN.

4. The temporary laborers supplied by Lancaster Packers and BC Farm Resources to the client businesses were the employees of Lancaster Packers and BC Farm Resources. Defendant KIM YOEUEN recruited the laborers employees primarily from the Asian and Hispanic communities in and around Harrisburg, Pennsylvania. The employees were transported to the job sites by vans driven by defendant YOEUEN and others recruited by YOEUEN. Defendant YOEUEN paid the employees of Lancaster Packers and BC Farm Resources in cash.

5. Defendant YOEUEN controlled and managed the daily operations of Lancaster Packers and BC Farm Resources, including, but not limited to, meeting with prospective client businesses, negotiating and approving the terms for supplying laborers to the client businesses, and organizing the transportation of the laborers to the job sites. Defendant YOEUEN also controlled the financial operations of Lancaster Packers and BC Farm Resources, including the business bank account, the preparation and submission of invoice sheets, receipt and disposal of business income, and the supervision and distribution of the cash payroll to the Lancaster Packers and BC Farm Resources employees.

6. Defendant KIM YOEUEN represented and agreed with the client businesses that the laborers supplied by Lancaster Packers and BC Farm Resources were the employees of Lancaster Packers and BC Farm Resources. Defendant YOEUEN further represented to the client businesses that Lancaster Packers and BC Farm Resources were responsible for paying over to the United States all employment taxes for the laborers supplied by Lancaster Packers and BC

Farm Resources.

7. From in on or about January 2005, to in or about August 2007, Lancaster Packers supplied temporary laborers to approximately six client businesses, for which the client businesses made checks payable to Lancaster Packers in the total sum of approximately \$5,162,784. From in or about August 2007, to in or about December 2007, BC Farm Resources supplied temporary laborers to approximately five client businesses, for which the client businesses made checks payable to BC Farm Resources in the total sum of approximately \$1,717,132. Defendant YOEUN deposited the checks from the client companies into the business bank accounts of Lancaster Packers and BC Farm Resources. Defendant YOEUN made cash withdrawals from these accounts to fund a cash payroll for the employee laborers of Lancaster Packers and BC Farm Resources.

8. Defendant KIM YOEUN had a duty to collect, truthfully account for and pay over to the United States, taxes imposed under the United States Tax Code, that is, federal income tax withholdings (FWT) and Federal Insurance Contribution Act (FICA) taxes comprising Social Security and Medicare taxes (collectively referred to as “employment taxes”) for employees of Lancaster Packers and BC Farm Resources. In this regard, defendant YOEUN was required to file quarterly with the Internal Revenue Service (“IRS”) IRS Form 941 (“Employer’s Quarterly Tax Return”), and report the total wages paid to employees of Lancaster Packers and BC Farm Resources and the amount of employment taxes due and owing to the United States. In addition, defendant YOEUN was required to pay the employment taxes due on those wages at the time the Form 941 was required to be filed with the IRS.

9. Defendant KIM YOEUEN caused IRS Forms 941 to be submitted to the IRS that falsely indicated that Lancaster Packers and BC Farm Resources had only two to four employees each quarter, and that reported only minimal quarterly wages and payroll taxes. No employment taxes were withheld from the cash wages paid by Lancaster Packers and BC Farm Resources to its employee laborers, and these employees did not receive IRS Form W-2 (“Employee Wage and Tax Statement”) or Form 1099 (“Miscellaneous Income”) from Lancaster Packers and BC Farm Resources.

10. From in or about January 2005 through in or about December 2007, defendant KIM YOEUEN paid a sum totaling approximately \$3,327,333 in cash wages “under the table” to the employee laborers of Lancaster Packers and BC Farm Resources, and failed to account for, collect, and pay over to the IRS the sum of approximately \$229,177 in employment taxes due and owing on those unreported wages.

11. On or about the following dates, in the Eastern District of Pennsylvania, defendant

KIM YOEUEN,

being a person required under Title 26, United States Code to collect, account for and pay over taxes imposed by Title 26, United States Code, willfully failed to collect and cause to be collected, truthfully account for and cause to truthfully be accounted for, and pay over and cause to be paid over to the United States, federal income tax withholdings and Federal Insurance Contribution Act taxes, of the approximate sums listed below, due and owing to the United States on taxable wages paid by Lancaster Packers and BC Farm to their employee laborers for

the following quarters:

Quarter Ending	Taxable Wages	Tax Due and Owing	Date Form 941 Filed Without Full Payment
September 30, 2005	\$200,315.48	\$15,324.13	October 5, 2005
December 31, 2005	\$271,744.90	\$20,788.48	January 27, 2006
March 31, 2006	\$205,885.41	\$15,750.23	April 19, 2006
June 30, 2006	\$248,013.70	\$18,973.05	July 25, 2006
September 30, 2006	\$274,681.43	\$21,013.13	October 30, 2006
December 31, 2006	\$357,169.24	\$27,323.45	January 24, 2007
March 31, 2007	\$336,632.27	\$25,752.37	April 27, 2007
June 30, 2007	\$371,384.98	\$28,410.95	July 31, 2007
September 30, 2007	\$455,962.98	\$34,881.17	October 27, 2007
December 31, 2007	\$520,000.55	\$39,780.04	January 8, 2008

All in violation of Title 26, United States Code, Section 7202.

ZANE DAVID MEMEGER
United States Attorney